

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MICHAEL SMITH,

Petitioner,

vs.

No. CIV-12-403 MV/WDS

**ROBERT STEWART Warden,
and GARY K. KING,
Attorney General for the
State of New Mexico,**

Respondents.

ORDER

This matter is before the Court *sua sponte* on consideration of Respondents' answer to Petitioner's petition for habeas relief. Defendants assert as an affirmative defense that the three grounds for relief raised in the petition have not been exhausted in any state court proceeding as required by 28 U.S.C. § 2254(b)(1)(A). Plaintiff will be required to show cause why his complaint should not be dismissed for failure to exhaust his state court remedies. Failure to file a timely response to this order may result in dismissal of the petition.

IT IS THEREFORE ORDERED that, within twenty-one (21) days from entry of this order, Petitioner file a response showing cause, if any, why his petition should not be dismissed for failure to exhaust state court remedies. If Petitioner alleges in his response that he has exhausted state court remedies, in whole or in part, he shall attach copies of all documents in his possession relating to those state habeas proceedings.



W. Daniel Schneider
United States Magistrate Judge